THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.17553 OF 2005

Dated: November, 2005.

Between:

1. Pothuri Venkataswamy and others. .. Petitioners

And

1. The District Collector, Nellore.
2. The Joint Collector, Nellore.
3. The Revenue Divisional Officer, Kavali.
4. The Mandal Revenue Officer, Jaladanki Mandal, Nellore District.
5. I. Brahmananda Reddy, S/o.Not known, aged 41 years, Occ: Fair Shop Dealer, R/o.Jaladanki village & Mandal, Nellore District. .. Respondents

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ORDER :

The writ petitioners, eight in number, claim to be the residents of Jaladanki Village & Mandal, Nellore District. The 5th respondent herein was the authorised dealer of the fair price shop of Jaladanki village. The 3rd respondent – Revenue Divisional Officer, Kavalai by proceedings dated 28-3-1998 cancelled the authorisation of the 5th respondent on the ground that he has diverted the rice meant for distribution to the cardholders into black-market. Aggrieved by the said order, the 5th respondent preferred an Appeal before the 2nd respondent – Joint Collector, Nellore. The said Appeal was allowed by order dated 24-4-1998, thereby setting aside the order of cancellation of the authorization, however levying penalty of Rs.2,500/-. The 5th respondent did not challenge the said order, but 12 villagers of Jaladanki including some of the petitioners herein filed a Revision Petition before the 1st respondent – District Collector, Nellore. The 1st respondent allowed the said Revision by order dated 20-07-1999 and remanded the matter to the 2nd respondent for consideration afresh. In pursuance thereof, the 2nd respondent having heard the parties, by order dated 31-08-2002 dismissed the Appeal, thereby confirming the order of cancellation of authorization dated 28-03-1998. Questioning the said order, the 5th respondent preferred a Revision before the 1st respondent. The said Revision petition was allowed by the 1st respondent by order dated 12-5-2005 which is under challenge in this writ petition.

The contention of the petitioners is that the impugned order passed by the 1st respondent suffers from non-application of mind to the relevant factors apart from being violative of principles of natural justice.

I have heard the learned Counsel for both the parties, and perused the material on record.

The relevant portion of the impugned order may be extracted hereunder :

> *"Heard the arguments and perused the records. The A.P. State Public Distribution System Control Order, 2001 explicitly denotes under Clause 21 (i) that any person aggrieved by an order under 21 (1)*

(i) may within 30 days from the date of communication to him/her of such an order, prefer a Revision to the District Collector.

In the instant case, the orders passed by the Joint Collector on 24-04-1998 was not communicated to any one of the 9 individuals who preferred a Revision Petition on 25-5-1998, since they are not aggrieved parties at all. Prima facie, there is no sanctity in entertaining the Revision Petition filed by a third party who does not relate to the orders issued by the appellate authority. Therefore, the orders passed by the appellate authority on 31-08-2002 are hereby set aside."

As can be seen, the Revision Petition was allowed only on the ground that the earlier Revision Petition filed by the villagers against the order of the 2nd respondent dated 24-4-1998 was not maintainable.

At the outset, it is to be noted that the Revision petition filed by the villagers of Jaladanki against the order dated 24-4-1998 was allowed by order dated 20-07-1999, thereby remanding the matter to the 2nd respondent – Appellate Authority for consideration afresh. The said order of remand passed in the Revision petition was not questioned by any party and consequently the 2nd respondent has taken up the appeal in compliance with the order of remand dated 20-07-1999 and decided the appeal afresh by order dated 31-8-2002. Thus, the order in the Revision Petition dated 20-07-1999 has worked itself out. Therefore, in the Revision petition filed against the order of the 2nd respondent dated 31-08-2002, it is not open to the 5th respondent to raise any objection as to the maintainability of the Revision petition which was already disposed of. Since the 2nd respondent, on remand, has decided the appeal afresh on merits, the 1st respondent ought to have examined the sustainability of the said order instead of allowing the Revision merely on the ground that the earlier Revision petition filed by the villagers was not maintainable as they were not aggrieved parties. Since the order dated 20-07-1999 in the earlier Revision petition filed by the villagers has already worked itself out, the 1st respondent was not justified in allowing the Revision petition solely on the ground that there was no sanctity in entertaining the earlier Revision petition filed by a third party. As a matter of fact, it would amount to reviewing the order dated 20-07-1999 which has already worked itself out. Such a course is impermissible under law and therefore on that ground alone, the impugned order is liable to be set aside.

Though the learned Counsel for the 5th respondent vehemently contended that the villagers who are not even cardholders have no *locus standi* to prefer a Revision petition under clause-21 (i) of The A.P. State Public Distribution System Control Order, 2001, I decline to express any opinion since the same is not the issue in question in the present writ petition.

Accordingly, the impugned order is set aside and the Writ Petition is allowed with a direction to the 1st respondent to decide the Revision Petition filed against the order of the appellate authority dated 31-08-2002 afresh and to pass appropriate orders in accordance with law in the light of the observations made above after affording due opportunity to both the parties. No costs.

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3rd November, 2005.

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